

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No. 3:09-501-JFA
)	
v.)	ORDER
)	
MATTHEW BARRINGTON GWYN)	
)	
)	

This matter is before the court on petitioner's motion to reconsider, presumably pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. Specifically, the defendant, asks this court to reconsider its January 23, 2012 order (ECF No. 1604) denying the defendant's motion for a Writ of Audita Querela.

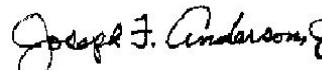
Motions under Rule 59 are not to be made lightly: “[R]econsideration of a previous order is an extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.” 12 JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE ¶ 59.30[4] (3d ed.). The Fourth Circuit has held such a motion should be granted for only three reasons: (1) to follow an intervening change in *controlling* law; (2) on account of new evidence; or (3) “to correct a *clear error of law* or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (emphasis added). Rule 59 motions “may not be used to make arguments that could have been made before the judgment was entered.” *Hill v. Braxton*, 277 F.3d 701, 708 (4th Cir. 2002). Nor are they opportunities to rehash issues already ruled upon because a litigant is displeased with the result. *See Tran v. Tran*, 166 F. Supp. 2d 793, 798 (S.D.N.Y. 2001).

The defendant's motion for reconsideration (ECF No. 1612) provides no basis whatsoever for this court to disturb its earlier ruling. The motion presents neither new controlling law, nor new evidence, nor points out a clear legal error of this court.

Additionally, the court will not entertain the defendant's alternative suggestion that this court resurrect his motion for a writ of audita querela as a motion to vacate or correct his sentence under 28 U.S.C. § 2255. The defendant is certainly free to file a separate motion under § 2255, and this court makes no suggestion as to merit or timeliness.

IT IS SO ORDERED.

February 28, 2012
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge